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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION TWO

In re STEVEN A., a Person Coming Under  
the Juvenile Court Law.

THE PEOPLE,  
Plaintiff and Respondent,

v.

STEVEN A.,  
Defendant and Appellant.

A106436

(San Francisco County  
Super. Ct. No. JW026163)

Appellant Steven A. filed an opening brief in which he raised no issues and asked this court for an independent review of the record as required by *People v. Wende* (1979) 25 Cal.3d 436. We affirm the juvenile court's sentence.

**BACKGROUND**

Appellant is a 17-year-old youth who appeals from an order sustaining a petition under Welfare and Institutions Code section 602, and committing him to an out-of-home program.

Appellant's first contact with the juvenile court system occurred at age 13 when he was cited for "tagging," or graffiti, on November 12, 2001. He was ordered to complete the "Life Management Program" and 96 hours of community service for his violation.

On March 1, 2002, appellant and a juvenile companion, T., lured another youth into an empty apartment building, where they proceeded to assault him in front of two

witnesses. The victim told the investigating officer that T. hit him twice in the leg with a crutch, and that when he asked T. to stop, T. hit him even harder with the crutch. The victim also stated that appellant punched him in the face and repeatedly kicked him after he was down. Appellant was booked into juvenile hall and later admitted the misdemeanor charge of assault with a deadly weapon or force likely to produce great bodily injury, in violation of Penal Code section 245, subdivision (a)(1).<sup>1</sup> Appellant was placed on home detention and was ordered to stay away from T.

After the assault, appellant continued to harass and bother the victim. Appellant threw basketballs at the victim during gym class, dropped backpacks on his head, and had other students hit him during school. Appellant also threatened one of the witnesses to the assault. Appellant told a friend that he “was going to beat [the witness] up for snitching.” As a result, appellant was charged with and later admitted to a misdemeanor charge of threatening a witness, in violation of section 140, and to intimidating a witness with express or implied threat of force, in violation of section 136.1, subdivision (c)(1).

On April 1, 2002, appellant, T., and two other companions, entered the Cyber-Club and struck up a conversation with another juvenile victim. One companion kicked the chair the victim was sitting on. Appellant then “backhanded” the victim on his left cheek. When the victim stood up and asked what the youths wanted, appellant replied “I heard your [sic] talking shit about me,” and then pushed the victim in the chest with two open hands before walking away.

After the victim went to another part of the Cyber-Club to tell his older brother of the incident, T. again approached him and “without saying anything slapped [the victim] on the left cheek and walked away.” Appellant then came up behind the victim and unsuccessfully attempted to “pants” him. Appellant pushed the victim again, said “you should stop talking shit about me,” and pushed him yet again before walking away. The victim again sought out his older brother for protection. T. came over to the victim from behind, tapped him on the shoulder, and, as the victim turned around, punched him in the

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<sup>1</sup> All subsequent references are to the Penal Code.

nose. A fight between T. and the victim then followed, during which, one of appellant and T.'s companions came up from behind the victim, held him down and punched him repeatedly in the upper back. The fight ended when the victim's older brother punched T. in the face, allowing the victim to leave the Cyber-Club.

As a result of this incident, appellant was charged with and later admitted committing a battery, in violation of section 242. His counselors reported that appellant had been bullying many students at his school and that most kids were afraid of him. Appellant was expelled from school on April 24, 2002, and reassigned to another school for the duration of the school year.

When he appeared before the juvenile court for sentencing on the three charges, appellant was declared a ward of the court, placed on one-year's probation and ordered to attend anger management and street law programs. He was also ordered to stay away from T., and the three victims of his crimes.

On December 17, 2002, while still on probation, appellant was charged with and admitted to an amended misdemeanor count of grand theft, in violation of section 487, subdivision (c). Appellant and three companions followed their victim off a bus and across the street. One companion, M., yelled "hey" to get the victim's attention, and the four surrounded him on all sides. Another companion, F., went up to the victim and started searching his pockets. Appellant took the victim's CD player from his hand and the earphones from around his neck. As the four were walking away, the victim asked if he could at least have his CD back, which appellant returned.

As a result of this offense, the juvenile court extended appellant's probation, ordered periodic drug testing, and ordered him to stay away from his three companions and the victim. During his probation, appellant tested positive for marijuana use on three different occasions. Appellant was ordered to participate in YTEC-Light as a supplemental condition to his probation.

On January 9, 2004, while still on probation, appellant and three other youths, including F. who appellant had been ordered to avoid, were involved in the attempted burglary of a residential home. At 10:50 that night, the homeowner was reading in bed

when she heard noises coming from her front door. She got up to investigate and heard “a real metal sound, like metal-on-metal, with the door knob,” and knew someone was trying to break into her home. As she was descending the stairs, she looked out her front window and saw “what looked like [four] teenage boys on my porch.” All four boys were dressed in black, and one boy was Asian with spiky hair. The homeowner put her hands on the window and said “hey, what’s going on?” The boys immediately fled and she called 911.

Officer Juan Gala immediately responded to the call and saw four young men dressed in black within one and a half blocks of the home. All four wore black gloves. The four were walking in groups of two and appellant was among them.

Because they matched the victim’s description, the officer asked them to stop. One of the youths, I., immediately reached into his jacket and withdrew something which he dropped to the ground. The object hit the ground and made a metallic sound. The object, later retrieved, was a crowbar; and a search of the area also revealed a discarded ceremonial sword that had been stolen from another house earlier that night. The officer also found a sheathed knife on I.’s waist, which also had been stolen earlier that night. I.’s backpack contained a flashlight and screwdriver.

The victim positively identified all four as the ones she saw when she investigated the noises at her door that night. Appellant was charged with one count of attempted burglary, in violation of sections 664 and 459, and one count of possession of burglary tools, in violation of section 466. The juvenile court found that “based on the evidence that I’ve heard that there is only one reasonable interpretation of the conduct here. And, in fact, that is that the minors . . . set out to burglarize a home.” The court stated that “I have no doubt that [I.] was the principal in this. I have no doubt about that. But I also have absolutely no doubt that the three [others, including appellant,] got taken in and without question, agreed . . . to go on this frolic. [¶] And, as a consequence, they are stuck with the consequences of the decision they made on that night, which was a disastrous decision. But it wasn’t a passive decision. It wasn’t passive at all.”

At sentencing, the court noted that “we have been struggling for really an enormous period of time [with appellant’s problems and] there is something really wrong that’s going on. There have just been too many serious incidents involving [appellant].” Accordingly, the court declared appellant a ward on his own behalf and found that “an award of custody to his parents would be detrimental to [appellant] and an award to a non-parent is required to sever his best interest. [Appellant’s] welfare . . . requires that his custody be taken from the parent, as return of the Minor to the home would be contrary to his welfare. Reasonable efforts have been made to prevent or eliminate the need for removing [appellant] from the home, to make it possible for him to return home.”

The court concluded that “I strongly believe that [appellant] needs to be with a group of peers that are positive role models for him. Because he, like most young men of his age, are influenced by his peers. . . . [T]his last incident demonstrates that there is a clear disconnect between what [appellant] understands and his actions or his ability to be readily persuaded . . . by those around him.” The court recommended that the probation department place appellant at Hanna’s Boys Center. The court also granted the probation department the right to allow appellant to return home on a 30-day trial basis upon completion of the program of the assigned facility.

Appellant filed a timely notice of appeal from the judgment and sentence.

Our independent review of the record reveals no arguable issues.

### **DISPOSITION**

Accordingly, we affirm the judgment of the trial court.

Lambden, J.

We concur:

Kline, P.J.

Ruvolo, J.